

REMARKS

In the Office Action, the Examiner rejected claims 1, 2, 5, 7-12, 14-26 and 29 and objected to claims 3, 4, 6, 13, 27 and 28. However, the Examiner indicated that claims 3, 4, 6, 13, 27, and 28 would be allowable if rewritten in independent form. As discussed in detail below, Applicants stress that the Examiner's rejections based on foreign references are incomplete without an English translation in accordance with M.P.E.P. § 706.02. For this reason, Applicants respectfully request the Examiner to provide Applicants with a translation of the cited foreign references to make the record clear as to the content of such references. Applicants request that in the next Office Action, the Examiner cite specific passages from the translated references relied on to support the rejections, or withdraw the rejections based on these references.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1, 4, 7-9, 14-15 under U.S.C. § 102(b) as anticipated by Neukam (German Patent Application Publication No. DE19844644A1); and claims 1-2, 5, 8-10, 11-12, 16-26 and 29 under U.S.C. § 102(b) as anticipated by Hamagishi et al. (Japanese Patent Application Publication No. JP2001177281). Claims 1, 9, 17, 20, and 25 are independent claims. Applicants respectfully traverse these rejections.

Legal Precedent

First, anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited

reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Second, the *drawings* of the cited reference must be evaluated for what they *reasonably disclose and suggest* to one of ordinary skill in the art. *In re Aslanian*, 590 F.2d 911, 200 U.S.P.Q. 500 (CCPA 1979). Arguments based on dimensions of the drawing features are of little value where the reference does not disclose specific dimensions or any indication of whether the drawings are to scale. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 U.S.P.Q.2d 1487, 1491 (Fed. Cir. 2000).

Third, in the case of foreign language references, the Board of Patent Appeals and Interferences found that “proper examination under 37 C.F.R. § 1.104 should be based on the underlying documents and *translations*, where needed.” *Ex parte Jones*, 62 U.S.P.Q.2d 1206 (PTO Bd. App. 2001). (Emphasis added). Section 706.02 of the M.P.E.P. states: “[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection.”

Claim Features Omitted from the Figures of the Cited References

Applicants note, initially, that the figures of Neukam and Hamagishi et al. do not anticipate the present claims. See Office Action, pages 2-3.

For example, independent claim 1 recites a “*multiple* fan chassis . . . mountable in an electronic device.” Independent claim 9 recites a “*multiple* fan tray disposed in the chassis.” In sharp contrast, figures 1-4 of the Neukam reference depict single fans

individually mounted without a *multiple fan chassis or tray*. Thus, any reasonable interpretation of the Neukam figures does not disclose all of the features of independent claims 1 and 9, or their dependent claims.

As another example, independent claim 1 recites a multiple fan chassis comprising “*airflow* passages directed from the plurality of fan supports into the electronic device *in the withdrawn access position.*” Independent claim 9 recites a multiple fan tray comprising “an airflow passage *pneumatically coupled* with the chassis *in . . . the extracted position.*” Conversely, the Neukam figures depict fans, when in a withdrawn position, as *not* blowing into the illustrated device. *See* Neukam, Figure 1. Therefore, figures 1-4 of the Neukam reference cannot reasonably be interpreted to disclose a chassis or tray having airflow passages directed into the device when in the withdrawn or extracted position. Thus, for these reasons as well, the Neukam figures do not disclose all of the features of independent claims 1 and 9, or the claims dependent thereon.

Turning to the Hamagishi et al. reference, the Hamagishi figures relied on by the Examiner in making the rejection must be evaluated for what they *reasonably disclose and suggest* to one of ordinary skill in the art. *See In re Aslanian*, 590 F.2d at 911. Applicants emphasize that those of ordinary skill in the art *cannot reasonably interpret* the figures of Hamagishi et al. without an English translation of the Hamagishi text associated with the figures. Given the lack of detail and clarity in these figures, it is mere conjecture to assert that these figures disclose features of the instant claims. In view of these ambiguities, the Applicants stress that (without an English translation) Hamagishi et al. cannot support a *prima facie* case of anticipation.

For these reasons, the Examiners rejections cannot stand. Thus, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 102.

Request Translation of Neukam and Hamagishi et al. References

Applicants respectfully request that the Examiner provide English translations of the Neukam and Hamagishi et al. references. *See Ex parte Jones*, 62 U.S.P.Q.2d at 1208 (referencing 37 C.F.R. § 1.104 and holding that in the event a reference cited by an examiner is in a foreign language, the applicant may request the examiner to supply a translation). Applicants kindly remind the Examiner that if he is to rely upon a document in a language other than English to support a rejection, the Manual of Patent Examination Procedure states that the Examiner must obtain an English translation. *See M.P.E.P. § 706.02* (noting that the examiner must obtain a translation so that “the record is clear as to the precise facts the examiner is relying upon in support of the rejection”); *see also M.P.E.P. § 901.05(d)* (explaining how an examiner may obtain translations of foreign patents or literature that are possible references for an application being examined). In sum, Applicants respectfully request that the Examiner provide translations of the cited references or withdraw the rejections and allow the claims.

Allowable Subject Matter

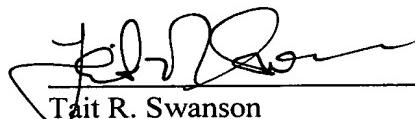
Applicants graciously acknowledge the Examiner’s indication of the allowable subject matter of claims 3-4, 6, 13, 27 and 28. However, the Applicants do not choose to amend the claims at this time.

Serial No. 10/716,763
Response to Office Action
Mailed July 30, 2004

Conclusion

Applicants respectfully submit that all pending claims are in condition for allowance. However, if further prosecution might be expedited by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



Date: October 21, 2004
Tait R. Swanson
Registration No. 48,226
(281) 970-4545

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400